

Attorney Docket No. SIC-00-001-4

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of:

KENJI OSE

Application No.: 09/992,597

Filed: November 14, 2001

For: SWITCH STYLE BICYCLE SHIFT  
CONTROL DEVICE

Examiner: Chong Hwa Kim

Art Unit: 3682

REPLY BRIEF

Mail Stop Appeal Brief-Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

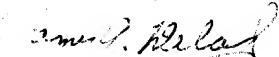
Commissioner:

This reply brief is submitted pursuant to 37 CFR §41.50(a)(2)(ii) and 37 CFR §41.41. The Appellant requests that the appeal be maintained.

The Examiner's Supplemental Answer mailed January 28, 2008 alleges that Higuchi shows, in Fig. 2, the projection (8) having a slanted portion that is connected to the dial (9) protrudes radially inwardly from a radially innermost outer peripheral surface of the dial. However, Higuchi does not say that the slanted line at the portion of lever (8) near the bottom portion of wire winding element (9) illustrates a portion of lever (8) that extends radially inwardly from the outer peripheral surface of wire winding element (9), so the Examiner's Answer must be alleging that the slanted line in Fig. 2 inherently depicts lever (8) extending radially inwardly of the outer peripheral surface of wire winding element (9). It is well settled that inherent anticipation requires that the missing descriptive material is "necessarily present," not merely probably or possibly present, in the prior art. *Rosco, Inc. v. Mirror Lite Co.*, 304 F.3d 1373, 64 USPQ.2d 1676 (Fed.Cir. 2002). It is more likely that the horizontal line projecting to the left into the lever portion (10a) merely represents a crease

where the lever portion (10a) makes the transition from the vertical side surface of wire winding element (9) to the horizontally extending outer peripheral surface of lever portion (10a). The slanted line certainly does not necessarily mean that lever (8) extends radially inwardly of the outer peripheral surface of wire winding element (9).

Respectfully submitted,



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